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ABSTRACT

This document presents an audit of the United States Commission on Civil Rights. The following aspects were examined: (1) compliance with the requirements of Public Law 100-202, which imposes hiring regulations; (2) regional offices; (3) civil rights monitoring; (4) consultants; (5) temporary employees; (6) mission-related external services contracts; (7) Schedule C employees (these are GS-15s or below with policymaking roles or confidential working relationships with top appointed officials); (8) special assistants to Commissioners; and (9) Commissioners. As of March 31, 1988, the Commission was found to be in compliance with each of the fiscal year 1988 line item appropriations and other limitations. However, the Commission needs to recompute its obligations for temporary employees: the Commission's original calculations did not include amounts for all temporary employees or benefits for any of them. These omissions may have caused the Commission to unknowingly exceed the legal limitation by the end of the fiscal year. The Chairman of the Commission had used 75 percent of his billable days as of April 9, 1988. His availability to participate in Commission activities during the second half of the fiscal year is limited to his remaining billable days. A table illustrates the data. (BJV)

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United States General Accounting Office

GAO

Report to the Chairman, Committee on Appropriations, U.S. Senate, and the Chairman, Committee on Appropriations, House of Representatives

June 1988

# U.S. COMMISSION ON CIVIL RIGHTS

# Compliance With Appropriation Provisions as of March 31, 1988

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**United States**
**General Accounting Office**
**Washington, D.C. 20548**

**General Government Division**

B-227356

June 2, 1988

The Honorable John C. Stennis
Chairman, Committee on Appropriations
United States Senate

The Honorable Jamie L. Whitten
Chairman, Committee on Appropriations
House of Representatives

Public Law 100-202 provided the fiscal year 1988 appropriation for the Commission on Civil Rights. The law requires GAO to audit the Commission at mid-year to determine its compliance with fiscal year 1988 line item appropriations and other limitations and report our findings to the Appropriations Committees of the Senate and House of Representatives.

## Background

Congress provided a $5.7 million lump sum appropriation for the Commission's fiscal year 1988 expenses. Within this lump sum appropriation, Congress established two line item appropriations, each specifying the amount available only for the activity described. Of the $5.7 million, $2 million is for regional offices and $700,000 is for civil rights monitoring. The Commission is not precluded from spending more than the line item appropriation for these activities as long as the Commission does not exceed the $5.7 million total appropriation. However, the Commission is precluded from using the line item appropriations for activities other than those for which the money was appropriated.

Congress has also placed other limitations on the use of the lump sum appropriation. Congress specified that no more than $20,000 may be used to employ consultants, no more than $185,000 may be used to employ temporary or special needs appointees,[1] and no more than $40,000 may be used for mission-related external services contracts.

Public Law 100-202 prohibits the use of funds to employ more than four full-time Schedule C employees in addition to one special assistant for each of the eight Commissioners, including the Chairman. Further, the law prohibits the Commission from paying a special assistant an amount that is more than the equivalent of 150 billable days at the daily rate of a GS-11 salary. Congress also limited each Commissioner to 75 billable days and the Chairman to 125 billable days. Public Law 100-202 does

[1]The Commission has not employed any special needs appointees during the period October 1, 1987, through March 31, 1988.

not place any other limits on the salaries of Commissioners or the Chairman.

## Results in Brief

As of March 31, 1988, we found the Commission to be in compliance with each of the fiscal year 1988 line item appropriations and other limitations. However, the Commission needs to recompute its obligations for temporary employees. The Commission's calculation of these obligations did not include amounts for all temporary employees or benefits for any of them. These omissions might have caused the Commission to unknowingly exceed the legal limitation by the end of the fiscal year. The Commission has agreed to recompute obligations for temporary employees.

Further, the Chairman had used 75 percent of his billable days as of April 9, 1988. His availability to participate in Commission activities during the second half of the fiscal year is limited to his remaining billable days.

## Objective, Scope, and Methodology

In accordance with the requirements of Public Law 100-202, our objective was to assess the Commission's compliance with its fiscal year 1988 line item appropriations and other limitations as of March 31, 1988.

We examined the Commission's March 31, 1988, Status of Earmarks report and the supporting documentation, including accounting records, to determine the amounts that had been obligated for regional offices, civil rights monitoring activities, consultants, temporary appointees, and mission-related external services contracts. The Department of Agriculture's National Finance Center records expenditures for the Commission, though expenditures are not accumulated by line item appropriation or limitation category. Therefore, we were not readily able to determine the status of expenditures.

We traced judgmentally selected transactions recorded in the Commission's monthly transaction registers for the period October 1987 through March 1988 to supporting documentation to test the reliability of the information in the accounting records. We examined personnel appointment and payroll records for consultants and temporary appointees as a further check on the completeness and accuracy of entries in the accounting records. Our examination did not reveal any material discrepancies.

We also examined personnel records for Schedule C appointees, including special assistants, employed during the period October 1, 1987, through March 31, 1988. In addition, we examined payroll records for the Chairman, each Commissioner, and each special assistant to determine the number of days they had billed as of April 9, 1988, the end of the pay period containing March 31, 1988.

Our audit work was done between March 18, 1988, and May 4, 1988, at the Commission's headquarters in Washington, D.C. It was done in accordance with generally accepted government auditing standards.

## Compliance With Requirements of Public Law 100-202

As discussed in the following sections and shown in table 1, the Commission was in compliance with each of the line item appropriations and other limitations.

**Table 1: Commission's Compliance With Line Item Appropriations and Other Limitations as of March 31, 1988**

| | Appropriation or limitation | Status |
|---|---|---|
| **Line item appropriations** | | |
| Regional offices | $2,000,000 | $748,000 obligated |
| Civil rights monitoring | $ 700,000 | $ 334,000 obligated |
| **Other limitations** | | |
| Consultants | $ 20,000 | $1,000 obligated |
| Temporary or special needs appointees | $ 185,000 | $43,450 obligated through 4/9/88 |
| Mission-related external services contracts | $ 40,000 | $0 obligated |
| Schedule C's other than special assistants | 4 | 3 |
| Special assistants | $20,616 as determined by the Commission based on the limitations set forth in the law | Salaries for each special assistant ranged from $596 to $11,567 through 4/9/88 |
| Commissioners other than the Chairman | 75 billable days | Number of days billed ranged from 26 to 46 through 4/9/88 |
| Chairman | 125 billable days | 94 days billed through 4/9/88 |

## Regional Offices

Congress specified a line item appropriation of $2 million for regional offices. During the period October 1, 1987, through March 31, 1988, the

Commission obligated $748,000 for regional offices[2] (37 percent of the $2 million line item appropriation). The Commission's budget shows that the Commission plans to use the entire $2 million for regional offices by September 30, 1988. The Commission is not precluded from using more than $2 million for regional offices.

To determine total regional office cost, the Commission adds the costs that can be directly attributable to regional operations ($563,000 as of March 31, 1988) to a percentage of the Commission's costs that cannot be associated with particular operations but which are indirect costs incurred to support all operations (28.7 percent of $642,000 as of March 31, 1988). The Commission determines the percentage at the beginning of the fiscal year by dividing the planned number of regional office employees (23) by the planned total number of Commission employees (80). A Commission official advised us that the accounting records will be adjusted at the end of the fiscal year to reflect any major differences in the planned and actual employment levels. However, the Commission does not anticipate major differences.

## Civil Rights Monitoring

The line item appropriation for civil rights monitoring is $700,000. For the first half of fiscal year 1988, the Commission obligated $334,000 for civil rights monitoring activities. This amount represents 48 percent of the $700,000 line item appropriation and 45 percent of the $749,000[3] the Commission budgeted and intends to use for civil rights monitoring activities. As discussed previously, the Commission may budget for and spend more than the $700,000 line item appropriation as long as it does not use any of the $2 million appropriated for regional offices or exceed its total appropriation of $5.7 million.

During the period October 1, 1987, through March 31, 1988, the Commission had 12 civil rights monitoring projects. Civil rights monitoring projects involve gathering information on and assessing the status of civil rights in various areas. Projects focus on such issues as Indian tribal justice, immigration, AIDS, hate group activities, and religious discrimination. All of the employees who work directly on civil rights monitoring projects work at Commission headquarters, and most of

[2]This amount does not include rental charges for space leased from the General Services Administration (GSA). A Commission official said that the amount owed GSA cannot be determined until the Commission receives a bill from GSA. Fiscal year 1987 rental payments to GSA totalled $686,000.

[3]The Commission estimated that $749,000 would be required for ongoing and planned projects during fiscal year 1988.

them work in the Commission's Office of General Counsel and Civil Rights Evaluation.

The method the Commission uses to determine civil rights monitoring costs is similar to the one it uses to determine regional office costs. Costs that can be directly attributable to civil rights monitoring projects ($258,000 as of March 31, 1988) are added to a percentage of the Commission's indirect costs (11.8 percent of $642,000 as of March 31, 1988).

The percentage used to allocate a portion of the Commission's indirect costs to civil rights monitoring projects is determined by dividing the fiscal year 1988 salaries budgeted for civil rights monitoring projects ($346,000) by the total Commission salaries budgeted for fiscal year 1988 ($2,931,000). The Commission uses a percentage based on salaries rather than on the number of positions because Commission employees who work on civil rights monitoring projects also work on other activities. According to a Commission official, civil rights monitoring cost will be adjusted at the end of the fiscal year to reflect any differences in the budgeted and actual salaries.

## Consultants

A consultant receives a temporary or intermittent appointment to a position with advisory rather than operational responsibilities. The Commission may not use more than $20,000 to employ consultants during fiscal year 1988. During the period October 1, 1987, through March 31, 1988, the Commission obligated $1,000 for consultants (5 percent of the $20,000 spending limitation.)

During the period October 1, 1987, through March 31, 1988, 18 individuals had consultant appointments at the Commission. Of the 18 consultants, only one did work for the Commission during the first half of fiscal year 1988. He was appointed to review, comment on, and offer advice concerning drafts of a Commission report on federal protection of handicapped infants.

## Temporary Employees

Temporary employees are appointed for a specified period. The amount used for temporary employees during fiscal year 1988 cannot exceed $185,000. From October 1, 1987, through April 9, 1988, salaries and

benefits for 14 temporary employees totaled $43,450.[1] This amount represents 23 percent of the $185,000 spending limitation and 41 percent of the $105,000 the Commission budgeted for temporary employees.

In determining obligations for temporary employees, the Commission only included the salaries of full-time temporary employees. It did not include the salaries of part-time and intermittent temporary employees or benefits for any of the temporary employees. We discussed this with Commission officials who agreed to include salaries and benefits for all full-time, part-time, and intermittent temporary employees.

## Mission-Related External Services Contracts

Congress placed a $40,000 spending limitation on mission-related external services contracts. For the purpose of Public Law 100-202, the Commission has defined mission-related external services contracts as contracts for research studies which are in furtherance of the Commission's statutory mission. During the period October 1, 1987, through March 31, 1988, the Commission did not have any contracts for mission-related external services. The Commission did not budget any fiscal year 1988 funds for mission-related external services contracts.

## Schedule C Employees

The Commission is not to employ more than four full-time Schedule C employees in addition to the Schedule C employees who were special assistants to Commissioners. Schedule C employees are GS-15's or below who have policymaking roles or confidential working relationships with agency heads or top appointed officials. During the period October 1, 1987, through March 31, 1988, the Commission had three full-time Schedule C employees in addition to the eight Schedule C employees who were special assistants to the Commissioners.

## Special Assistants to Commissioners

By law, each of the eight Commissioners, including the Chairman, is allowed one special assistant. The law does not allow the Commission to pay a special assistant more than the equivalent of 150 billable days at the daily rate of a GS-11 salary. The Commission has determined this salary ceiling to be $20,616. In the one instance in which a Commissioner has a secretary who is a temporary employee, the Commission has also placed this ceiling on the combined annual salary of the special

[1]Although consultants are appointed as temporary employees, they are not included among the 14 temporary employees discussed here or in the $185,000 provided for temporary employees. The Commission's consultants are treated separately by Public Law 100-202 and are discussed in the preceding section.

assistant and the Commissioner's secretary.[5] During the period October 1, 1987, through April 9, 1988, special assistants' salaries did not exceed the maximum allowed by law. They ranged from $596 to $11,567.

Public Law 100-202 established the ceiling on a special assistant's salary using the GS-11 salary level but does not limit the salary level to any particular step. The Commission used the GS-11 step 10 salary to determine the ceiling on special assistants' annual salaries. During the period, seven of the special assistants were paid at the GS-11 step 1 level and one was paid at the GS-15 step 4 level. The Commission interprets the language of the statute—"the equivalent of"—as allowing a special assistant to have a salary at any grade and step level and to bill for any number of days as long as his or her annual salary does not exceed the ceiling. We have no basis to object to the Commission's interpretation of the law.

## Commissioners

As of April 9, 1988, the Chairman had used 94, or 75 percent, of his 125 fiscal year 1988 billable days. Because the Chairman only had 31 remaining billable days,[6] his availability to do Commission work will be limited during the second half of fiscal year 1988.

The number of days the other Commissioners had used as of April 9, 1988, ranged from 26 to 46. This range is from 35 to 61 percent of the 75 allowable days.

# Conclusion

As of March 31, 1988, we found the Commission to be in compliance with each of the fiscal year 1988 line item appropriations and other limitations. The Commission has agreed to revise its obligations for temporary employees. Similarly, Commission officials said they are monitoring the Chairman's and other Commissioners' work time to assure that they do not exceed the maximum billable days allowed.

Because of time constraints imposed on us by Public Law 100-202, we did not obtain official comments from the Commission. We did, however,

[5]Public Law 100-202 does not require that the Commission place a ceiling on the combined salaries of the special assistant and the secretary. The employment of the secretary is limited by the $185,000 ceiling on the salaries of temporary employees. This special assistant could be treated like the other special assistants for purposes of determining salary and billable days.

[6]As of May 21, 1988, the Chairman had only 23 remaining billable days, according to Commission officials.

discuss the facts and our observations with Commission officials. As indicated, they agreed to recompute obligations for temporary employees. They also said that the limitations on the Commissioners', especially the Chairman's, billable days will adversely affect their ability to fulfill their responsibilities.

We are sending copies of this report to the Commission and other interested parties.

Rosslyn S. Kleeman

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Senior Associate Director

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